

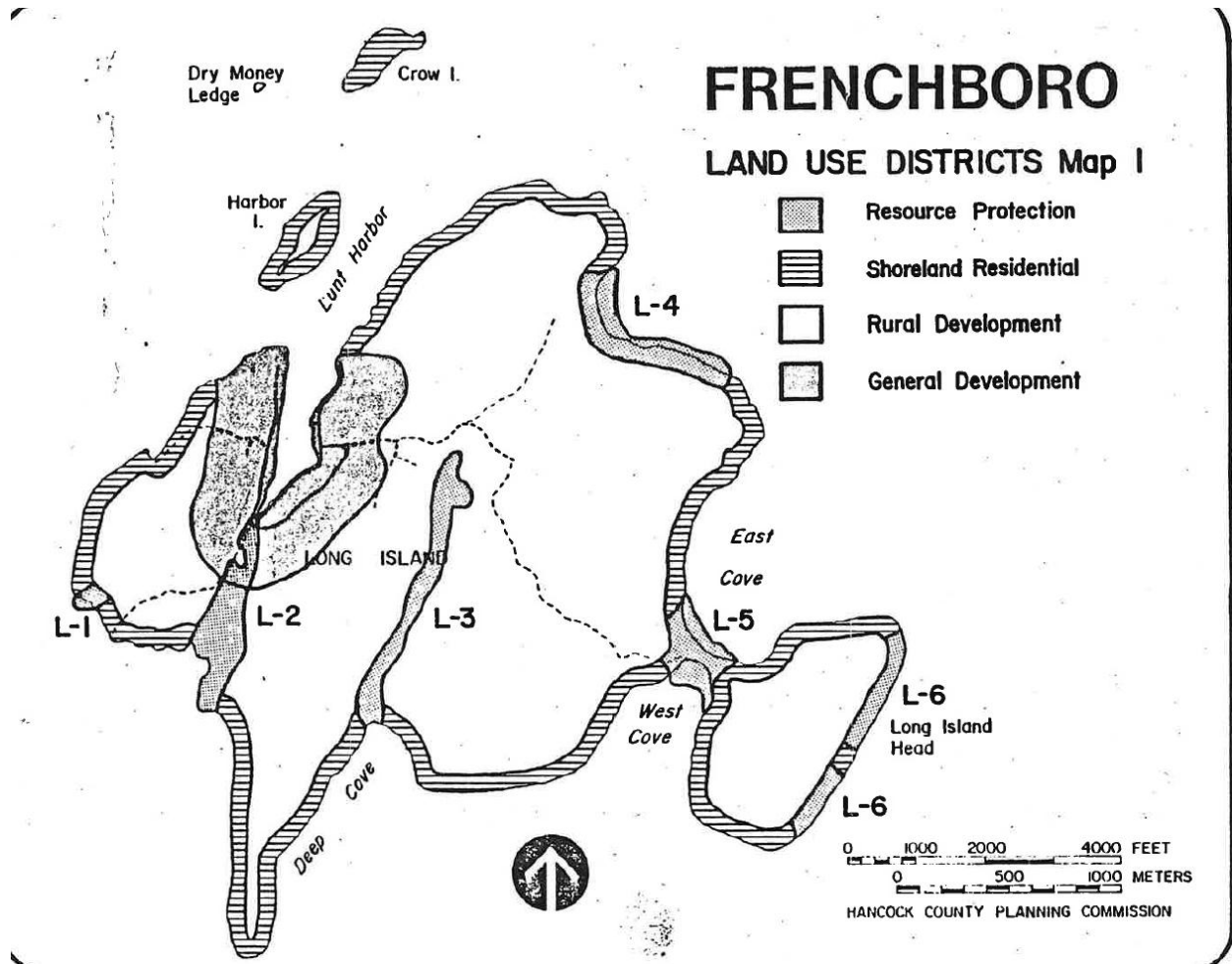
# Land Use Guidance Ordinance for Frenchboro, Maine

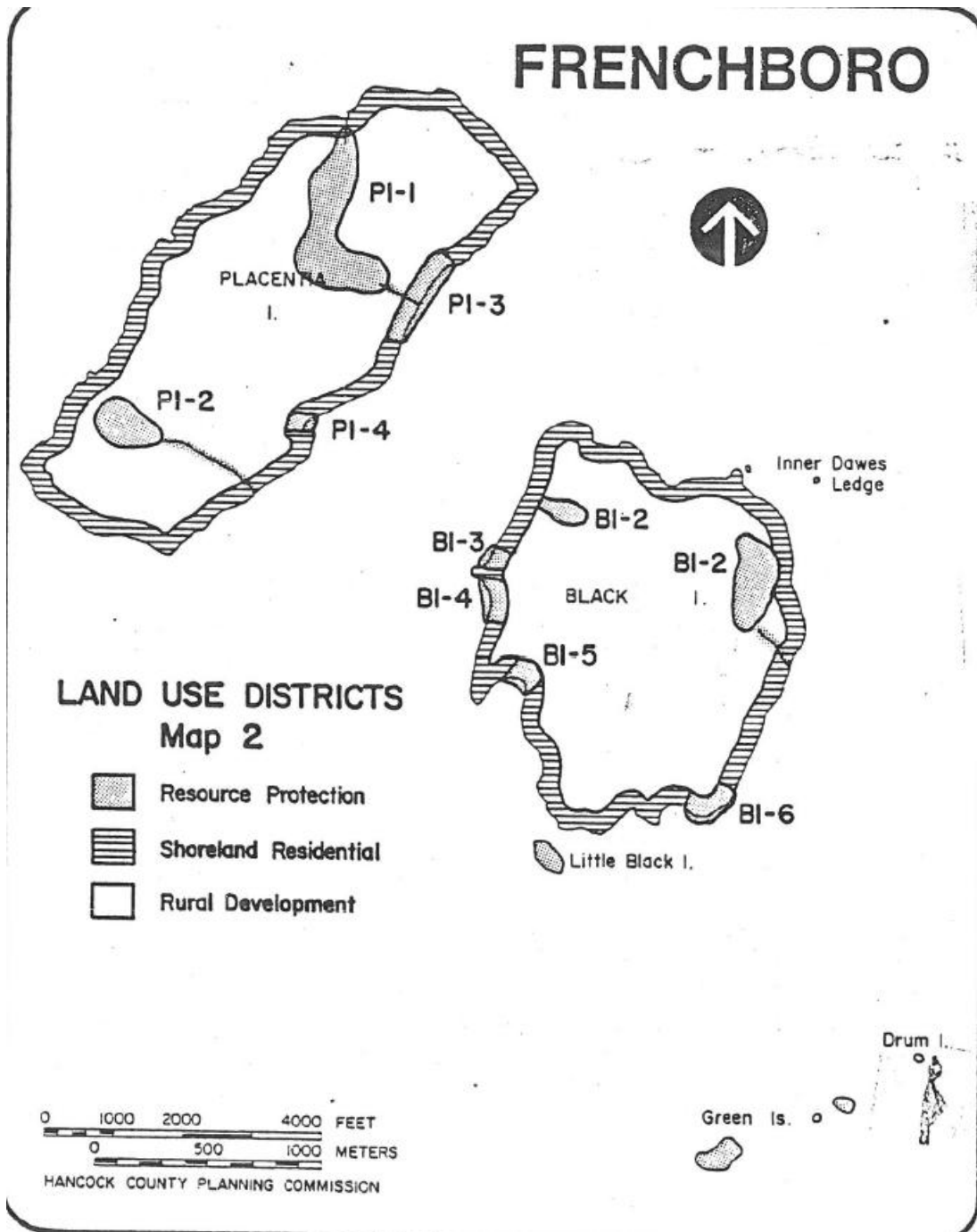
April 7, 2027 Preliminary Final Draft

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## SECTION 1: PURPOSES

The purpose of this Ordinance is to guide public and private land use decisions; to preserve and protect the rural, semi-developed character of the town; to facilitate economic and social growth; to promote the public health, safety and welfare; to conserve and protect the natural resources of the town; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

## SECTION 2: AUTHORITY

This Ordinance has been prepared in accordance with the provisions of ~~Title 38, Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.)~~ 38 M.R.S.A. §§ 435-449.

## SECTION 3: APPLICABILITY

The Town of Frenchboro encompasses twelve (12) islands, including Black, Crow, Duck (Little and Great), Drum, Green Islands (2), Harbor, Long, Mountain Desert Light, Placentia, and Pond.

This Ordinance applies to all land areas, ~~which include both~~ include both shoreland and non-shoreland zones, within the town limits of Frenchboro, Maine, and ~~and also applies to any structure, or part of any structure, that is proposed to be built, altered, improved, renovated, enlarged, moved (including removed from), or demolished; land that is used or occupied; any proposed use, or a change or expansion of a use and the creation or conveyance of a lot. on, over or abutting a dock, wharf or pier, or other structure extending beyond the normal high-water line of a water body or within a wetland.~~

## SECTION 4: EFFECTIVE DATE ~~AND REPEAL OF PREVIOUS ORDINANCE~~

~~This Ordinance, which was adopted by the municipal legislative body on May 21, 1991, shall not be effective unless approved by the Board of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Municipal Clerk, shall be forwarded to the Board of Environmental Protection for approval. If the Board of Environmental Protection fails to act on this Ordinance within forty five (45) days of its receipt of the Ordinance, it shall be deemed approved. Upon approval of this Ordinance, the Land Use Guidance Ordinance of the Town of Frenchboro, Maine, originally adopted in 1981, and its subsequent revisions is hereby repealed.—~~

~~Any application for a permit submitted to the municipality within the forty five (45) day period shall be governed by the terms of this Ordinance if the Ordinance is approved by the Board of Environmental Protection.~~

A. General. The effective date of this Ordinance is immediately upon its adoption by a majority vote of the legislative body of the Town, which occurred on XXXX, except as follows:

1. Shoreland Zoning. The shoreland zoning provisions of this Ordinance, composed of the provisions listed in subsection A.1.(a), below, and the shoreland zoning portions of the Official Land Use District Maps do not become effective unless approved by the DEP Commissioner. A certified copy of this Ordinance, or Ordinance amendment, attested and signed by the Town Clerk, must be submitted by the Town to the Commissioner following adoption by the legislative body of the Town for approval. If the Commissioner fails to act on the shoreland zoning provisions of this Ordinance, or any amendment thereto, within 45 days of the Commissioner's receipt of the shoreland zoning provisions, the provisions are automatically approved. Any application for a permit or approval submitted to the Town within such 45-day period is governed by this Ordinance as if Commissioner approval of the provisions has been granted. If amendments are made to the shoreland zoning subdistrict boundaries or any other matter portrayed on the Land Use District Maps, such changes must be made on the Land Use District Maps within 30 days after the provisions have been approved by the Commissioner.

(a) For purposes of subsection A.1, above, the following provisions constitute the shoreland zoning provisions of this Ordinance:

- i. All shoreland specific provisions within Section 9 (Districts and Zoning Maps).
- ii. Any provisions within Section 11 (Land Use Requirements) that concern uses, located in the shoreland zone.
- iii. Any provisions within Section 12 (Non-Conformance) that concern uses, structures, and lots located in the shoreland zone.
- iv. Any provisions in Section 14 (Schedule of Uses) that affect uses located in the shoreland zone.
- v. Any provisions in Section 15 (Land Use Standards) that concern uses, structures, and lots located in the shoreland zone.
- vi. Any provisions in Section 17 (Definitions) that concern uses, structures, and lots located in the shoreland zone.

## SECTION 5: AVAILABILITY

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public and will be posted to the Town's website. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

## SECTION 6: AMENDMENTS

~~This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Board of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Board of Environmental Protection. If the Board of Environmental Protection fails to act on any amendment within forty-five (45) days of the Board's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Board.~~

~~The chapters of this Ordinance or the Official Land Use District Maps may be amended as follows.~~

~~This Ordinance, the Official Land Use District Maps may be amended by the legislative body of the Town in accordance with applicable state law.~~

- A. ~~Amendments to the text of this Ordinance or the Official Land Use District Maps may be proposed by the Select Board, by the Planning Board, or upon the written petition of registered voters of the Town pursuant to 30-A M.R.S.A. §§ 2522 or 2528 (as applicable). In addition, amendments to the Official Land Use District Maps may be proposed by any property owner within the Town by making a written petition to the Planning Board, which must contain, at minimum:~~
  - i. ~~A map showing the properties to be affected by the proposed amendment and properties located within 500 feet of such properties;~~
  - ii. ~~A map showing the existing land uses at the time of application of the above-identified properties;~~
  - iii. ~~A narrative and other evidence demonstrating that the proposed amendments are consistent with the Comprehensive Plan; and~~
  - iv. ~~A narrative and other evidence demonstrating the need for the proposed amendments.~~
- B. ~~A public hearing on any proposed amendments to the Ordinance or the Official Land Use District Maps must be conducted by the Planning Board, serving as the municipal reviewing authority, pursuant to 30-A M.R.S.A. § 4352 and, if property is being considered for placement in the RP subdistrict, pursuant to 38 M.R.S.A. § 438-A(1-B).~~
- C. ~~Following the public hearing, the Planning Board may recommend to the Select Board whether or not an article to amend the Ordinance or the Official Land Use District Maps should be included in the warrant for a regular or special Town meeting. In making its recommendation, the Planning Board may recommend amendments to the text of the Ordinance or the Official Land Use District Maps that deviate from the original proposed amendments. The Planning Board will endeavor to submit its recommendation to the Select Board within 30 days of the~~

conclusion of the public hearing. Planning Board action under this Section is not a decision subject to any rights of appeal.

- D. The Select Board, by a majority vote, must determine whether to place an article to amend the Ordinance or the Official Land Use District Maps in the warrant for a regular or special Town meeting
- E. Any public hearings required to be held by the Planning Board and the Select Board under this Section or applicable law may be combined into a single consolidated hearing attended by both boards as long as the notice requirements applicable to both the Planning Board and Select Board hearings are satisfied.
- F. Any amendments made to the district or subdistrict boundaries or any other matter portrayed on the Official Land Use District Maps must be (a) immediately shown on the Official Land Use District Maps for non-shoreland zoning amendments or (b) shown within 30 days after an amendment to shoreland zoning portions of the maps has been approved by the Commissioner in accordance with Section 4.A.1 (Effective Date). The amended Official Land Use District Maps must be certified by the attested signature of the Town Clerk and be filed with the Town Clerk.
- G. The DEP Commissioner must be notified of any amendments made to the shoreland zoning provisions of this Code in accordance with Section 4.A.1 (Effective Date).

## SECTION 7: VALIDITY AND SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

## SECTION 8: CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

## SECTION 9: DISTRICTS AND ZONING MAPS

- A. The Town of Frenchboro, Maine, is hereby divided into the following districts:
  - 1. (RP) Resource Protection District;
  - 2. (SR) Shoreland Residential District;
  - 3. (RD) Rural Development District; and
  - 4. (GD) General Development District;
- B. Scale of Maps

The Official Land Use District Maps shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of the Official Land Use District Maps

The Official Land Use District Maps shall be certified by the attesting signature of the Municipal Clerk and shall be located at the municipal office.

D. Changes in the Official Land Use District Maps

If amendments, in accordance with Section 6, are made in the district boundaries or other matter portrayed on the Official Land Use District Maps, such changes shall be made on the Official Land Use District Maps within thirty (30) days after the amendment has been approved by the Board of Environmental Protection.

## SECTION 10: INTERPRETATION OF DISTRICT BOUNDARIES

Unless otherwise set forth on the Official Land Use District Maps as stipulated above, District Boundary lines are property lines, the centerlines of streets, roads, and rights-of-way, and the boundaries of areas as defined or dimensioned herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

Boundaries indicated as following shoreline shall be construed to follow such shorelines, and in the event of natural change in the shoreline, shall be construed as moving with the actual shoreline.

Boundaries indicated as following the perimeter of inland wetlands shall be construed as following such areas at their highest point and shall be determined by types of vegetation and soils.

## SECTION 11: LAND USE REQUIREMENTS

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

## SECTION 12: NON-CONFORMANCE

A. Purpose

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance shall be

allowed to continue, subject to the requirements set forth in this section. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General

1. Transfer of Ownership: Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. Repair and Maintenance: This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-Conforming Structures

1. Expansions: All new principal and accessory structures, excluding functionally water-dependent uses, must meet the shoreland setback requirements contained in Section 15(B). A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with the subparagraphs below.

Further Limitations:

- ~~a. If any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure.~~
- ~~b. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided; that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 2. Relocation, below; the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.~~
- ea. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

- db. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
- ec. Notwithstanding paragraph db. above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1).
- i. The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- ed. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(d), above.
- i. For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
- ii. In addition to the limitations for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or

the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(e)(i) and Section 12(C)(1)(f)(i), above.

ge. An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

2. Foundations: Whenever a new, expanded, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.

23. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provide that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(R). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of

trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- b. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

34. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the nonconforming footprint of the reconstructed or replaced structure at its new location. If the total amount of footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure.

When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(3) above.

Any non-conforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit, from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent, the Planning Board shall consider in addition to

the criteria [Section 12\(C\)\(3\) above](#), the physical condition and type of foundation present, if any.

**45.** Change of Use of a Non-Conforming Structure

The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

**D.** Non-Conforming Uses

1. Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in [Section 12\(C\)\(1\) above](#).
2. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one-year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
3. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in [Section 12\(C\)\(5\) above](#).

**E.** Non-Conforming Lots

1. Non-Conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage

are can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.

2. **Contiguous Built Lots:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and the State Subsurface Wastewater Disposal Rule are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to two or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on May 1st 1991, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- a. Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- b. Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

## SECTION 13: CRITERIA FOR ESTABLISHING DISTRICTS

### A. Resource Protection District (RP)

The Resource Protection District includes areas which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas except that areas which are currently developed and areas which

meet the criteria for Shoreland Residential, Rural Development and General Development need not be included in the Resource Protection District.

- ~~1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows and wetlands which are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife. (MDIF&W) as of January 1, 1973; Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by MDIF&W; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by MDIF&W; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by MDIF&W;~~
21. Areas identified as floodplains, as defined in this ordinance; 100-year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps;
- ~~32.~~ Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater where development does not already exist;
- ~~43.~~ Land areas adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs;
- ~~54.~~ Areas identified as important significant wildlife habitat;
- ~~65.~~ Areas of public access to islands; Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high tide.; and
- ~~76. Stream Protection Areas which shall include all land areas within seventy five (75) feet, horizontal distance of the normal high water line of a stream, exclusive of those areas within two hundred fifty (250) feet, horizontal distance, of the normal high water line saltwater body, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area is located within two hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be included under the protection of the Resource Protection District.~~

## B. SHORELAND RESIDENTIAL DISTRICT (SR)

The Shoreland Residential District shall include those areas located within 250 feet of the high-water mark of any salt-water body excluding land within the General Development District or the Resource Protection District.

The Shoreland Residential District will be primarily designated for low-intensity residential development and marine-related home occupations. ~~Marine-related structures and uses may be permitted as a conditional use.~~

C. RURAL DEVELOPMENT DISTRICT (RD)

The Rural Development District shall include those areas located more than 250 feet from the high-water mark of any saltwater body excluding those areas in the General Development District and Resource Protection District.

The Rural Development District will be primarily designated for low-intensity residential, commercial, and industrial development. Agricultural and forestry activities will be promoted for this district.

D. GENERAL DEVELOPMENT DISTRICT (GD)

The General Development District shall include those areas located within the present boundaries of Frenchboro Village. Specifically, the General Development District will include all land areas within 1,000 feet of the shores of Lunt's Harbor excluding the areas within the Resource Protection District.

The General Development District includes the following types of existing and proposed, intensely developed areas:~~will be primarily designated for high intensity residential, commercial, and industrial development, including:~~

1.        Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational areas; and
2.        Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

**SECTION 14: SCHEDULE OF USES**

All land use activities, as indicated in Table 1. Land Use Schedule, shall conform with all of the applicable land use standards in [Section 15](#). The district designation for a particular site shall be determined from the [Official Land Use District Maps](#).

Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)

No - Prohibited

PB - Requires permit issued by the Planning Board

CEO - Requires permit issued by the Code Enforcement Officer

LPI - Requires permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection

SR - Shoreland Residential

RD - Rural Development

GD - General Development

<b>TABLE 1. LAND USE SCHEDULE</b>					
Land Uses		RP	SR	RD	GD
1.	Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	Yes	Yes	Yes	Yes
2.	Motorized vehicular traffic on existing roads and trails	Yes	Yes	Yes	Yes
3.	<u>Clearing or removal of vegetation for activities other than timber harvesting</u>	<u>CEO<sup>1</sup></u>	Yes	Yes	Yes
4.	<del>Timber Harvesting</del>	<del>PB</del>	<del>PB</del>	<del>CEO</del>	<del>CEO</del>
5.	Clearing of Vegetation for approved construction and other allowed uses	CEO	Yes	Yes	Yes
6.	Fire Prevention Activities	Yes	Yes	Yes	Yes

<sup>1</sup> In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

7.	Wildlife Management Practices	Yes	Yes	Yes	Yes
8.	Soil and water Conservation	Yes	Yes	Yes	Yes
9.	Mineral Exploration	<u>Yes<sup>2</sup></u>	<u>Yes<sup>2</sup></u>	<u>Yes<sup>2</sup></u>	<u>Yes<sup>2</sup></u>
10.	Mineral Extraction including sand & gravel	<u>PB<sup>3</sup></u>	PB	PB	PB
11.	Surveying and Resource Analysis	Yes	Yes	Yes	Yes
12.	Emergency Operations	Yes	Yes	Yes	Yes
13.	Agriculture	PB	Yes	Yes	Yes
14.	Aquaculture	PB	PB	Yes	Yes
15.	Principle Structures and Uses				
	A. One and Two family Residential	<u>PB<sup>9</sup></u>	PB	CEO	CEO
	B. Multi-unit Residential	No	PB	PB	PB
	C. Family Farm	No	PB	CEO	CEO
	<del>D. Professional Office: the office of a physician, clergyman, architect, engineer, attorney, or a similar professional</del>	<del>No</del>	<del>Yes</del>	<del>Yes</del>	<del>Yes</del>
	<del>E. Commercial</del>	<del>No<sup>4</sup></del>	<del>No<sup>4</sup></del>	PB	PB
	<del>F. Industrial</del>	No	No	PB	PB
	<del>G. Government and Institutional</del>	No	PB	PB	PB
	<del>H. Rental Cottages and Cabins</del>	No	PB	PB	PB
	<del>I. Water recreation/fishing related retail and service</del>	<del>No</del>	<del>PB</del>	<del>PB</del>	<del>PB</del>
	<del>J. Small non-residential facilities for educational, scientific, or nature interpretation purposes</del>	<del><u>PB<sup>10</sup></u></del>	<del><u>CEO</u></del>	<del><u>CEO</u></del>	<del><u>CEO</u></del>
16.	Structures accessory to allowed uses, <u>other than accessory dwelling units</u>	PB	<u>CEO</u>	Yes	Yes

<sup>2</sup> Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

<sup>3</sup> In RP not allowed in areas so designated because of wildlife value.

<sup>4</sup> Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

17.	Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland				
	a. Temporary	<u>CEO<sup>5</sup></u>	<u>CEO<sup>5</sup></u>	<u>CEO<sup>5</sup></u>	<u>CEO<sup>5</sup></u>
	b. Permanent	PB	PB	PB	PB
18.	Conversions of seasonal residences to year-round residences	<u>LPI</u>	LPI	LPI	LPI
19.	Home Occupations	<u>PB</u>	<u>PB</u>	Yes	Yes
20.	Private sewage disposal systems for allowed uses	<u>LPI</u>	LPI	LPI	LPI
21.	Individual private campsites	CEO	CEO	CEO	CEO
22.	<u>Essential Services</u>				
	A. <u>Roadside distribution lines (34.5kV and lower)</u>	<u>CEO<sup>5</sup></u>	<u>Yes<sup>6</sup></u>	<u>Yes<sup>6</sup></u>	<u>Yes<sup>6</sup></u>
	B. <u>Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone</u>	<u>PB<sup>6</sup></u>	<u>CEO</u>	<u>CEO</u>	<u>CEO</u>
	C. <u>Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone</u>	<u>PB<sup>6</sup></u>	<u>PB</u>	<u>PB</u>	<u>PB</u>
	D. <u>Other essential services</u>	<u>PB<sup>6</sup></u>	<u>PB</u>	<u>PB</u>	<u>PB</u>
23.	<u>Service drops, as defined, to allowed uses</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
24.	Road and Driveway Construction	<u>No<sup>7</sup></u>	PB	PB	PB
25.	Public and private parks and recreation areas with minimal structural development	PB	PB	<u>CEO</u>	<u>CEO</u>
26.	Campgrounds	<u>No<sup>8</sup></u>	<u>No</u>	PB	PB

<sup>5</sup> See further restrictions in Section 15(K).

<sup>6</sup> Permit not required but must file a written “notice of intent to construct” with CEO.

<sup>7</sup> Except as provided in Section 15(G).

<sup>8</sup> Except when area is zoned for Resource Protection due to floodplain criteria in which case a permit is required from the PB.

<sup>9</sup> Single-family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

27.	Commercial or industrial uses other than fishing	No	No	PB	PB
28.	Parking Facilities	<u>No</u> <sup>8</sup>	PB	PB	PB
29.	<u>Marinas</u>	<u>No</u>	<u>PB</u>	<u>PB</u>	<u>PB</u>
30.	Public Utility	PB	PB	PB	PB
31.	Filling and earthmoving of <10 cubic yards	CEO	<u>Yes</u>	Yes	Yes
32.	Filling and earthmoving of ≥10 cubic yards	PB	CEO	CEO	CEO
33.	Signs	Yes	Yes	Yes	Yes
<del>34.</del>	<del>Timber Harvesting</del>	<del>PB</del>	<del>Yes</del>	<del>Yes</del>	<del>Yes</del>
<del>35.</del>	<del>Land Management Roads</del>	<del>PB</del> <sup>10</sup>	<del>Yes</del>	<del>Yes</del>	<del>Yes</del>
36.	Uses similar to allowed uses	CEO	CEO	CEO	CEO
37.	Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
38.	Uses similar to uses requiring a PB permit	PB	PB	PB	PB
<u>39.</u>	<u>Accessory Dwelling Unit (“ADU”)</u>	<u>PB</u> <sup>9</sup>	<u>PB</u>	<u>CEO</u>	<u>CEO</u>

A. A person performing any of the following activities shall require a permit from the Department of Environmental Protection. If the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, stream or brook and operates in such a manner that material or soil may be washed into them:

1. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other material;
2. Draining or otherwise dewatering;
3. Filling, including adding sand or other material. to a sand dune; or
4. Any construction or alteration of any permanent structure.

B. Uses Not Listed in Schedule of Uses. No use is allowed in the shoreland zone unless it is listed as an allowed use in the above schedule of uses. Any use not expressly allowed or expressly prohibited in a shoreland zoning subdistrict is prohibited in that district.

## SECTION 15: LAND USE STANDARDS

All land use activities shall conform with the following provisions if applicable:

### A. Minimum Lot Standards

#### 1. Minimum Lot Standards Tables      **Residential Use per Dwelling Unit**

<u>Zoning District</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Shore Frontage/Lot Width (ft.)</u>	<u>Minimum Structure Setback (ft.)</u>	<u>Minimum Lot Line Setback (ft.)</u>	<u>Maximum Lot Coverage (%)</u>	<u>Maximum Height (ft.)</u>
a. <u>RP adjacent to tidal areas</u>	<u>30,000</u>	<u>150</u>	<u>250</u>	<u>15</u>	<u>20</u>	<u>35</u>
b. <u>RP adjacent to non-tidal areas</u>	<u>40,000</u>	<u>200</u>	<u>250</u>	<u>15</u>	<u>20</u>	<u>35</u>
c. <u>SR adjacent to tidal areas</u>	<u>30,000</u>	<u>150</u>	<u>75</u>	<u>15</u>	<u>20</u>	<u>35</u>
d. <u>SR adjacent to non-tidal areas</u>	<u>40,000</u>	<u>200</u>	<u>75</u>	<u>15</u>	<u>20</u>	<u>35</u>
e. <u>GD adjacent to tidal areas</u>	<u>30,000</u>	<u>150</u>	<u>25</u>	<u>15</u>	<u>70</u>	<u>35</u>
f. <u>GD adjacent to non-tidal areas</u>	<u>40,000</u>	<u>200</u>	<u>25</u>	<u>15</u>	<u>20</u>	<u>35</u>
g. <u>RD adjacent to non-tidal areas</u>	<u>40,000</u>	<u>200</u>	15	15	20	<u>35</u>

**Governmental, Institutional, Commercial or Industrial per principal structure**

<u>Zoning District</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Shore Frontage/Lot Width (ft.)</u>	<u>Minimum Structure Setback (ft.)</u>	<u>Minimum Lot Line Setback (ft.)</u>	<u>Maximum Lot Coverage (%)</u>	<u>Maximum Height (ft.)</u>
a. <u>SR adjacent to tidal areas</u>	<u>40,000</u>	<u>200</u>	<u>75</u>	<u>15</u>	<u>20</u>	<u>35</u>
b. <u>SR adjacent to non-tidal areas</u>	<u>60,000</u>	<u>300</u>	<u>75</u>	<u>15</u>	<u>20</u>	<u>35</u>
c. <u>GD adjacent to tidal areas</u>	<u>40,000</u>	<u>200</u>	<u>25</u>	<u>15</u>	<u>70</u>	<u>35</u>
d. <u>GD adjacent to non-tidal areas</u>	<u>60,000</u>	<u>300</u>	<u>25</u>	<u>15</u>	<u>20</u>	<u>35</u>
e. <u>RD adjacent to non-tidal areas</u>	<u>60,000</u>	<u>300</u>	15	15	20	<u>35</u>

**Public and Private Recreational Facilities**

<u>Zoning District</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Shore Frontage/Lot Width (ft.)</u>	<u>Minimum Structure Setback (ft.)</u>	<u>Minimum Lot Line Setback (ft.)</u>	<u>Maximum Lot Coverage (%)</u>	<u>Maximum Height (ft.)</u>
a. <u>RP adjacent to tidal areas</u>	<u>40,000</u>	<u>200</u>	<u>250</u>	<u>15</u>	<u>20</u>	<u>35</u>
b. <u>RP adjacent to non-tidal areas</u>	<u>40,000</u>	<u>200</u>	<u>250</u>	<u>15</u>	<u>20</u>	<u>35</u>
c. <u>SR adjacent to tidal areas</u>	<u>40,000</u>	<u>200</u>	<u>75</u>	<u>15</u>	<u>20</u>	<u>35</u>
d. <u>SR adjacent to non-tidal areas</u>	<u>40,000</u>	<u>200</u>	<u>75</u>	<u>15</u>	<u>20</u>	<u>35</u>
e. <u>GD adjacent to tidal areas</u>	<u>30,000</u>	<u>200</u>	<u>25</u>	<u>15</u>	<u>70</u>	<u>35</u>
f. <u>GD adjacent to non-tidal areas</u>	<u>40,000</u>	<u>200</u>	<u>25</u>	<u>15</u>	<u>20</u>	<u>35</u>
g. <u>RD adjacent to non-tidal areas</u>	<u>40,000</u>	<u>200</u>	15	15	20	<u>35</u>

2. Minimum Lot Area. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads servicing more than two (2) lots shall not be included toward calculating minimum lot area.
3. Lots Split by Accessways. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of the land on both sides thereof after September 22, 1971.
4. Minimum Lot Width. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirements for a lot with the proposed use.
5. Multiple Uses. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least seventy-five (75) feet from the normal high water mark of water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development district, the minimum setback shall be at least twenty-five (25) feet, horizontal distance, except for water-dependent uses which shall have no minimum setback.

All new principal and accessory structures (including ADUs) for residential and non-residential uses in all districts shall be set back at least fifteen (15) feet from the side, rear or front lot lines and fifteen (15) feet from the edge of right of way if lot has frontage on road. Lot line setbacks shall be measured perpendicular to the side, rear or front lot lines or edge of road right of way if lot has frontage on road.

2. In the Resource Protection District the setback requirement shall be two-hundred and fifty (250) feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply. In addition:
  - a. The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

- b. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.
- c. On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including non-vegetated surfaces and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
23. Principal or accessory structures and expansions of existing structures shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennae, and similar structures having no floor area.
34. Structures within the Floodplain. All structures within the floodplain shall meet the requirements of the Frenchboro Floodplain Management ~~Hazard~~ Ordinance.
45. Minimum Floor Elevation in Floodplain. The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the ~~100-year~~ 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. Accessory structures may be placed in accordance with the standards of the Floodplain Management Ordinance that is consistent with the April 2005 or later version under the National Flood Insurance Program.
56. The total area of all structures, parking lots and other non-vegetative surfaces shall not exceed twenty (20) percent of the lot or a portion thereof, except in the General Development District adjacent to tidal waters and in uses which are marine related, where lot coverage shall not exceed seventy (70) percent. Section 15(B)(6) shall not apply to public boat launching facilities, regardless of the district in which they are located.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as non-vegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

67. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the CEO, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body and that the applicant demonstrates that no reasonable access alternative exists on the property.
78. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
- a. The site has been previously altered and an effective vegetated buffer does not exist;
  - b. The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
  - c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
  - d. The total height of the wall(s), in the aggregate, is no more than 24 inches;
  - e. The retaining wall is located outside of a floodplain;
  - f. The area behind the retaining wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development (including patios and decks) will occur within the setback area; and
  - g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
    - i. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
    - ii. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

- iii. Only native species may be used to establish the buffer area;
  - iv. A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
  - v. A footpath not to exceed the standards in Section 15(O)(2)(a), may traverse the buffer.
- C. Piers, Docks, Wharfs, Bridges and other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland
  - 1. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.
  - 2. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
  - 3. The location shall not interfere with existing developed or natural beach areas.
  - 4. The facility shall be located so as to minimize adverse effects on fisheries.
  - 5. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
  - 6. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
  - 7. No existing structure built on, over-or-abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
  - 8. Except in the General Development district, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
  - 9. The Planning Board may approve shoreline stabilization of an eroding shoreline, provided that the following requirements are met:
    - a. Construction equipment must access the shoreline by barge when feasible, as determined by the Planning Board.

- b. When necessary, the removal of vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the shoreline stabilization is complete, the construction equipment access way must be restored.
- c. Any restoration or revegetation shall occur in accordance with Section 15(R).

NOTE: Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. §480-C.

#### D. Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State Licensing procedures and the following:

1. Campgrounds shall contain a minimum of five thousand (5000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of seventy-five (75) feet from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.

#### E. Individual Private Campsites

Individual private campsites not associated with campgrounds are permitted provided the following conditions are met:

1. On a vacant lot, one campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within 250 feet of the high-water mark of a water body, whichever is less, may be permitted.
2. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
23. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back seventy-five (75) feet from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.
34. Only one recreational vehicle shall be allowed on a campsite. Recreational Vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.

45. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District (RP) shall be limited to one thousand (1000) square feet.
56. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner is required.
67. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Parking Areas

1. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities, in Districts other than General Development, may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, and where feasible, to retain runoff on-site.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
  - b. Internal Travel Aisles: Approximately twenty (20) feet wide.
  - c. Per 30-A M.R.S. §4364-B, an ADU shall not be subject to any additional parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the ADU is located.

G Roads and Driveways

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features:

1. Roads and driveways shall be set back at least seventy-five (75) feet from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no reasonable

alternative exists, the Planning Board may reduce the road setback to a distance set by the Board that is no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but not be limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent.

This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

2. Existing public roads may be expanded within the legal right-of-way regardless of its setback from a water body.
3. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high water line of a water body, tributary stream, or upland edge of a wetland.
4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection S.
5. Road and driveway grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet where possible.
6. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

- a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

<u>Road Grade (Percent)</u>	<u>Spacing (Feet)</u>
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.
  - c. On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road.
  - d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
8. Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads shall be maintained on a regular basis to ensure effective functioning.

H. Signs

The following provisions shall govern the use of signs in the Resource Protection, Rural Development and Shoreland Residential Districts:

- 1. Signs and billboards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Billboards and signs relating to goods and services not sold or rendered on the premises shall be prohibited.
- 2. Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises.
- 3. Residential users may display signs not over six (6) square feet in area relating to the sale, rental, or lease of the premises.
- 4. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- 5. Signs relating to public safety shall be permitted without restriction.

6. No sign shall extend higher than twenty (20) feet above the ground.
7. Signs may be illuminated only by shielded, non-flashing lights.
- I. Stormwater Runoff
  1. All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
  2. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.
- J. Septic Waste Disposal and Service
  1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Sewage Wastewater Disposal Rules, and the following:
    - a. Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland; and
    - b. A holding tank is not allowed for a first-time residential use in the shoreland zone.

NOTE: The Rules, among other requirements, include:

- a. The minimum setback for new subsurface sewage disposal systems shall be no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback relating to goods or services not sold or rendered on the premises shall be prohibited.
2. The owner of a dwelling unit, including an ADU, must provide written verification to the municipality that the dwelling unit is connected to adequate wastewater services before the municipality may certify the dwelling unit for occupancy. Written verification under this subsection must include:
  - a. If a dwelling unit, including an ADU, is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by the Local Plumbing Inspector pursuant to 30-A M.R.S. § 4221, as may be amended. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules.

K. Essential Services

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services is not permitted in a Resource Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

L. Mineral Exploration and Extraction

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration, which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures so as to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such a plan shall describe in detail procedures to be undertaken to fulfill the requirements of paragraph 4 below.
2. Unless authorized pursuant to the Natural Resource Protection Act, 38 M.R.S.A. § 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within seventy-five (75) feet of the normal high-water line of a water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet of any property line, without written permission of the owner of such adjacent property.
3. New gravel pits shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the water body by vegetation.
4. In the Shoreland Residential Districts, within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of material are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
  - a. All debris, stumps, and similar material shall be removed for disposal in an approved location or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

- b. The final graded slope shall be two to one (2:1) or flatter.
  - c. Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
5. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.
- M. Agriculture
1. All spreading or disposal of manure shall be accomplished in conformance with the [Manure Utilization Guidelines published by the former Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law \(7 M.R.S.A. §§ 4201-4209\).](#)
  2. Manure shall not be stored or stockpiled within seventy- five (75) feet horizontal distance of a water body, tributary streams, or wetlands.
  3. Agriculture activities involving tillage of soils greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within two hundred and fifty feet of the high-water mark of any water body, stream or wetland shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered a violation of this Ordinance.
  4. There shall be no tilling of soil within seventy-five (75) feet, horizontal distance, of the normal high-water line of a water body; nor within twenty-five (25) feet, horizontal distance, of a tributary stream, or wetland. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
  5. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance of a water body, nor within twenty-five (25) feet, horizontal distance, of a tributary stream or wetland. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

N. Timber Harvesting

[Title 38 M.R.S.A. § 438-A provides that, notwithstanding other provisions in the Mandatory Shoreland Zoning Act, the regulation of timber harvesting and timber harvesting activities in shoreland areas must be in accordance with section 438-B and rules adopted by the Bureau of](#)

~~Forestry. The Town has chosen the option to defer all administration and regulation of all forestry activities within the municipality to the Bureau of Forestry.~~

~~Timber harvesting (“the cutting and removal of timber for the primary purpose of selling or processing forest products” see Definitions) is regulated by the Maine Bureau of Forestry. The Town has chosen to defer all administration and regulation of all harvesting and timber harvesting activities within the municipality to the Bureau of Forestry. Other activities regarding clearing and removal of vegetation are regulated by the town in accordance with state minimum requirements (see Section O. below).~~

~~Timber harvesting and timber harvesting activities within the shoreland protection zone must be in accordance with Title 38 M.R.S.A. section 438-B. Timber harvesting outside of the shoreland protection zone is covered by the state Forest Practices Act for cutting of trees and by the Natural Resources Protection Act to protect water quality for those waterbodies that may fall outside of the shoreland areas.~~

~~Property owners should contact the District Forester for guidance on timber harvesting whether within or outside of the shoreland protection zone. The Forestry Rules of Maine 2017: A Practical Guide for Foresters, Loggers and Woodlot Owners - 2nd Edition is a useful guide for timber harvesting.~~

O. ~~Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting~~

1. ~~Within a Resource Protection District abutting a water body, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high water line, except to remove safety hazards.~~

~~Elsewhere.~~ In any Resource Protection District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- ~~21.~~ Except in areas as described in paragraph 1, above, and except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from any water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
- a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ~~ten~~ ~~six (6)~~(40) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created.
  - b. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of

this section, a “well distributed stand of trees and other vegetation” adjacent to water bodies, other than a great pond classified GPA or a river or stream flowing to a great pond classified GPA, tributary streams, and wetlands, is defined as maintaining a minimum rating score of 8 per 25-foot square area. is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

<u>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</u>	<u>Points</u>
<u>2 - &lt;4 in.</u>	<u>1</u>
<u>4 - &lt;8 in.</u>	<u>2</u>
<u>8 - &lt;12 in.</u>	<u>4</u>
<u>12 in. or greater</u>	<u>8</u>

The following shall govern in applying this point system:

- i. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- ii. Each successive plot must be adjacent to, but not overlap a previous plot;
- iii. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Article;
- iv. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Article;
- v. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(O)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Refer to Section 15(P) of Chapter 1000: Guidelines for Municipal Shoreland Zoning Ordinances for more information about this point system.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4½ feet above ground level may be removed in any ten (10) year period.

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in paragraphs 2 and 2a. above.
  - ed. Pruning of tree branches, on the bottom one third of the tree is permitted.
  - de. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings within seventy-five (75) feet of a water body, these openings shall be replanted with native tree species unless existing new tree growth is present.
  - ef. In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of paragraph 2 above.
32. At distances greater than seventy-five (75) feet, horizontal distance, from the high-water line of a water body, tributary stream, or the upland edge of a wetland, ~~except to allow for the development of permitted uses,~~ there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.
- In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall apply only to the Resource Protection District and the Shoreland Residential District.
43. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
54. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

P. Hazard Trees, Storm-Damaged Trees and Dead Tree Removal

1. Hazard trees may be removed without a permit after consultation with the Code Enforcement Officer, provided the following requirements are met:

- a. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, the opening shall be replaced with native tree species, unless there is new tree growth already present near to where the hazard tree was removed. New tree growth is considered to be at least two (2) inches in diameter, measured at four and one half (4.5) feet above ground level. If new growth is not present, then replacement trees shall consist of native species, be at least four (4) feet in height and be no less than two (2) inches DBH. Stumps shall not be removed.
- b. Outside the shoreline buffer, if the removal of hazard trees results in more than forty (40) percent of the volume of trees, four (4) inches or more in diameter as measured at four and one half (4.5) feet above ground level, being removed in any ten (10) year period; or results in cleared openings of more than twenty-five (25) percent of the lot area within the shoreland zone or more than ten thousand (10,000) square feet, whichever is greater; then replacement with native tree species is required, unless there is new tree growth already present near to where the hazard tree was removed. New tree growth is considered to be at least two (2) inches DBH. If new growth is not present, then replacement trees shall consist of native species and be no less than two (2) inches DBH.
- c. The Code Enforcement Officer may require the applicant to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
- d. The Code Enforcement Officer may require more than a one-for-one replacement for removed hazard trees that exceeded eight (8) inches in diameter at four and one half (4.5) feet above ground level.

2. Dead trees may be removed without a permit, provided the following requirements are met:

- a. The trees are dead from natural causes. Dead trees are those that contain no foliage during the growing season.
- b. The removal of dead trees does not result in the creation of new lawn areas or other permanently cleared areas.
- c. Stumps shall not be removed.

3. Storm-damaged trees may be removed without a permit after consultation with the Code Enforcement Officer, provided the following requirements are met:
- a. Within the shoreline buffer, if the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, the following shall be required:
- i. The area shall be required to naturally revegetate. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings shall be required at a density of one seedling/sapling per every eighty (80) square feet of open canopy.
- ii. The removal of storm-damaged trees does not result in the creation of new lawn areas or other permanently cleared areas.
- iii. Stumps shall not be removed.
- iv. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree.
- b. Outside the shoreline buffer, if the removal of storm-damaged trees results in more than forty (40) percent of the volume of trees, four (4) inches or more in diameter as measured at four and one half (4.5) feet above ground level, being removed in any ten (10) year period; or results in cleared openings of more than twenty-five (25) percent of the lot area within the shoreland zone or more than ten thousand (10,000) square feet, whichever is greater; then the area shall be required to naturally revegetate. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings shall be required on a one-for-one basis.

Q. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the standards for clearing or removal of vegetation set forth in Section 15(O), provided that all other applicable requirements of this Ordinance are complied with, and the removal of vegetation is limited to that which is necessary:

1. The clearing or removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the standards of Section 15(O), such as but not limited to cleared openings in the canopy or fields. If any of these areas revert back to primarily woody vegetation, due to a lack of removal of vegetation every two (2) years, the requirements of Section 15(O) shall apply.
2. The clearing or removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 15(B) are not applicable.

3. The clearing or removal of vegetation from the location of public swimming areas associated with allowed public recreational facilities.
4. The clearing or removal of vegetation associated with allowed agricultural uses, provided that all requirements of Section 15(M) are complied with, and that best management practices are utilized.
5. The clearing or removal of vegetation associated with brownfields or voluntary response action program projects pursuant to 38 M.R.S.A section 343-E, provided that the following provisions are met:
  - a. The clearing or removal of vegetation is within the shoreland zone of a coastal wetland or a river that does not flow to a great pond that is designated as a General Development Commercial Fisheries / Maritime Activities District; and
  - b. The clearing or removal of vegetation is necessary for remediation activities to clean up contamination.
6. The clearing or removal of non-native invasive vegetation, provided that the following requirements are met:
  - a. If clearing or removal of vegetation occurs via wheeled or tracked motorized equipment, then the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that the wheeled or tracked motorized equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  - b. The clearing or removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  - c. If the clearing or removal of non-native invasive vegetation results in a standard of Section 15(O) being exceeded, then the area shall be revegetated in accordance with Section 15(R) to achieve compliance with the applicable standard(s) of Section 15(O).
7. The clearing or removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

#### R. Revegetation Requirements

When revegetation is required to address the removal of non-native invasive species of vegetation, to address removal of vegetation in conjunction with shoreline stabilization, in response to violations of the standards set forth in Section 15(O), or as a mechanism to allow for development that may otherwise not be permissible due to the standards of Section 15(O), then revegetation shall comply with the following requirements:

1. The applicant must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed, and must occur at a density comparable to the pre-existing vegetation. If this is not feasible due to shoreline stabilization, then revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.
3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
4. Revegetation activities must meet the following requirements for trees and saplings:
  - a. All trees and saplings removed must be replaced with native noninvasive species;
  - b. Replacement vegetation must consist of saplings at a minimum;
  - c. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - d. No one species shall make up 50% or more of the number of trees and saplings planted;
  - e. If revegetation is required for shoreline stabilization, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or saplings must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - f. A survival rate of at least eighty (80) percent of planted trees/saplings is required for a minimum of five (5) years.
5. Revegetation activities must meet the following requirements for all woody vegetation and for other vegetation under three (3) feet in height:
  - a. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
  - b. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

- c. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  - d. No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - e. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained in Section 15(O) for a minimum of five (5) years.
6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - b. Where necessary due to a lack of sufficient ground cover, the area must be supplemented with leaf mulch and/or bark mulch at a minimum of four (4) inches deep to prevent erosion and provide for effective infiltration of stormwater; and
  - c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this Ordinance for a minimum of five (5) years.

**RS.** Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
  - a. Mulching and revegetation of disturbed soil.
  - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - c. Permanent stabilization structures such as retaining walls or riprap.
2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the

- activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
    - a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
    - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain mulch cover.
    - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
  5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater and shall be stabilized with vegetation or lined with riprap.

#### ST. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum groundwater elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

#### U. Water Quality and Service

1. No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body.

2. The owner of a dwelling unit, including an accessory dwelling unit (ADU), must provide written verification to the municipality that the dwelling unit is connected to adequate water services before the municipality may certify the dwelling unit for occupancy. Written verification under this subsection must include:
  - a. If a dwelling unit, including an ADU, is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 § 10.25(J), Land Use Districts and Standards, as may be amended. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

#### UV. Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as well as known prehistoric and historic archaeological sites as identified by the Maine Historic Preservation Commission (MHPC), as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

1. Per MHPC, there are three known prehistoric archaeological sites on Pond Island and two on Long Island. One site has been located on Placentia Island. One site (stone tools) was discovered by scallop draggers underwater between Placentia and Black Islands. To date, no historic archaeological sites have been documented for the town.
2. Sites listed on the National Register of Historic Places include:
  - a. Great Duck Island Light Station, Great Duck Island
  - b. Mount Desert Rock Light Station, Mount Desert Rock

#### W. Accessory Dwelling Units

1. For the purpose of compliance with 30-A M.R.S.A. §4364-B, an Accessory Dwelling Unit (“ADU”) shall be allowed on any lot, in any area in which housing is permitted, on which a single-family dwelling unit is the primary structure.
2. An ADU may be constructed only: within an existing dwelling unit on the lot; attached to or sharing a wall with a single-family dwelling unit; or as a new structure on the lot constructed for the primary purpose of creating an ADU. For an ADU located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit, the setback requirements and dimensional requirements must be the same as the setback requirements and dimensional requirements of the single-family dwelling unit, except that an ADU permitted in an existing accessory building or

secondary building or garage as of July 1, 2024, in which case the requisite setback requirements for such a structure apply.

3. An ADU is exempt from any density requirements or calculations to the area in which the ADU is located.
4. The ADU must comply with the minimum setback and maximum height requirements within this ordinance.
5. Any ADU in the Shoreland Zone must comply with shoreland zoning requirements established by the Department of Environmental Protection (DEP) under Title 38, chapter 3 and those within this ordinance. ADUs within the Shoreland Zone may only be established on a lot where the ADU itself can meet the minimum lot area and minimum shore frontage requirements of Section 15(A), Minimum Lot Standards, of this ordinance.
6. An ADU must be a minimum of 190 square feet in size of livable floor area, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S.A. § 9722, as may be amended, adopts a different minimum standard; if so, that standard applies. An ADU in Frenchboro may not exceed 800 square feet of livable floor area or the livable floor area of the principal dwelling, whichever is less.
7. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid or enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.
8. This section may not be construed to exempt a subdivider from the requirements of state subdivision law.
9. If more than one ADU has been constructed on a lot as a result of the allowance under this section or the multiple dwelling unit section, the lot is not eligible for any additional increases in density.
10. An ADU is allowed on a lot that does not conform to the municipal zoning ordinance if the ADU does not further increase the nonconformity.

#### X. Multiple Dwelling Units Per Lot

In compliance with 30-A M.R.S.A. §4364-A, multiple dwelling units shall be allowed on all lots where residential uses are allowed, provided evidence of sufficient water and wastewater capacity exists.

1. Number of additional dwelling units per lot.

- a. A lot without an existing dwelling unit may have up to two (2) dwelling units, for a total of two (2) dwelling units per lot.
- b. A lot with one (1) existing dwelling unit may have up to two (2) additional dwelling units, for a total of three (3) dwelling units per lot. Additional dwelling units may be either:
  - i. Attached
  - ii. Detached; or
  - iii. One of each
- 2. If more than one dwelling unit has been constructed on a lot as a result of the allowance under this section or under the Accessory Dwelling Unit (“ADU”) section, the lot is not eligible for any additional increases in density.
- 3. Lots where a previously existing dwelling unit was torn down on or after July 1, 2024, shall be treated as if they were empty lots.
- 4. Dwelling units must comply with shoreland zoning requirements as applicable.
- 5. This section may not be construed to exempt a subdivider from the requirements of state subdivision law.
- 6. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid or enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.
- 7. Lots with multiple dwelling units must meet all dimensional lot requirements for each dwelling unit on the lot.

## SECTION 16: ADMINISTRATION

### A. Administering Bodies and Agents

#### 1. Code Enforcement Officer

A Code Enforcement Officer shall be reappointed annually by July 1st.

#### 2. Board of Appeals

A Board of Appeals shall be created in accordance with the provisions of Title 30-A, §2691.

#### 3. Planning Board

A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

1. A permit is not required for the replacement of an existing road culvert as long as:
  - a. The replacement culvert is not more than 25% longer than the culvert being replaced;
  - b. The replacement culvert is not longer than 75 feet; and
  - c. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
2. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
3. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application Submission

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the Municipality, to the appropriate official as indicated in Section 14. The Select Board reserves the right to set an application fee from time to time reflecting the costs to the Town.
2. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.
3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
4. When submitting an application for review by the Planning Board, the applicant must provide the original form and five (5) copies with the plans for the project. The original application shall be retained by the Town and filed with a copy of the permit; a copy of the application will be returned with the original of the permit to the applicant.

5. When submitting an application for review by the Code Enforcement Officer, the applicant must submit the original form and one copy with the plans for the project. The original application shall be retained by the Town and filed with a copy of the permit; the copy of the application will be returned with the original of the permit to the applicant.
- 4.6. A valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.
- 5.7. The applicant a permit for development within the shoreland zone is required to provide to the municipal permitting authority preconstruction photographs and, no later than 20 days after completion of the development, post construction photographs of the shoreline vegetation and development site. (Pursuant to 38 M.R.S.A. §439-A(10)).
8. Applications for approval under this Ordinance must include evidence that all appropriate local, state and federal agencies have been requested to determine if additional permits must be sought from them. Final approval will be given conditionally upon receipt of these permits if they are required.

D. Procedure for Administering Permits

Within 35 days of the date of receiving a written application, the reviewing authority (the Planning Board or Code Enforcement Officer,) as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.

For submissions being reviewed by the Planning Board, the Planning Board may conduct a workshop session with the applicant during a scheduled Planning Board meeting and before submission of the completed application.

1. Completeness of Application:

- a. The applicant will have thirty calendar days (30) to return with the specified material to make the application complete after notification from reviewing authority. The reviewing authority shall then determine if the application is complete.
- b. If the applicant is unable to meet the thirty (30) day requirement an additional thirty (30) calendar days may be requested by the applicant to the reviewing authority, who may grant one thirty (30) day time extension for just cause.
- c. If the applicant does not provide the requested material within thirty (30) calendar days or request an extension of time, the reviewing authority shall deny the application as incomplete.

d. If the application is denied as noted above, and if the applicant wishes to continue with the project, an entirely new application must be submitted and reviewed as a separate and new application.

2. Once Complete Application is Accepted:

a. When the reviewing authority has determined that the application is complete, the date shall be so noted on the application form. A dated receipt may be issued if so requested. An application is pending only after it has been determined to be complete by the reviewing authority.

b. Within thirty-five calendar (35) days after the application has been accepted as complete, the reviewing authority shall send notice of the application by first class mail to all abutting property owners (names and contact information of all abutters must be provided by the applicant in the application).

c. For permit applications under CEO review, on or after seven (7) calendar days from the date of said notification to abutters, the CEO shall approve or deny the application in writing. The CEO may request the advice and concurrence of the Planning Board on any application and shall refer any application to the Planning Board for decision, which in the CEO's judgment requires a public hearing or otherwise requires action by the Planning Board.

d. For permit applications under Planning Board review, the Planning Board shall act on completed applications presented to it according to the following procedure:

(i) The Planning Board shall hold a public hearing on the application within thirty five (35) calendar days of determination that an application is complete. The Town shall send notice of each public hearing by first class mail to all abutting property owners.

(ii) The applicant or his/her duly authorized representative shall attend the public hearing of the Board to discuss the application.

(iii) The Planning Board shall either approve or deny the application in writing within thirty five (35) calendar days of the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and applicant.

(iv) Applications shall be approved only by majority decision that the proposed use is in conformance with the land use and land use standards of this Ordinance. If the permit is denied, the denial shall include a statement of findings of fact and of reasons in support of the decision. If the permit is approved, the approval may include a statement of findings of fact.

~~3. Permit Application Review Criteria:The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held.~~

Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance. The Code Enforcement Officer or Planning Board may require the submission of whatever information is necessary to determine conformance with the provisions of this Ordinance.

a. After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a General Development District;
8. Will avoid problems associated with floodplain development and use; and
9. Is in conformance with the provisions of Section 15, Land Use Standards.

b. The permitting authority may attach such restrictions or conditions as it deems necessary to ensure compliance.

c. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing.

d. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State law which the municipality is responsible for enforcing.

E. Modification and/or Amendment to an Approved Permit

1. The permit shall have been approved within the last year.
2. The modification and/or amendment shall be minor; e.g., an accessory structure, a small addition or modification to the approved structure, under one hundred square feet (100 Sq. Ft.), etc.
3. The CEO shall be the permitting authority for the modification and/or amendment. The CEO will request the advice and concurrence of the Planning Board if the modification and/or amendment raises unusual questions or if, in the CEO's judgment, a public hearing should occur.
4. The procedure for a modification and/or amendment shall be the same as for any permit except that the Completeness of Application shall only refer to the modification and/or amendment.

F. Fees

1. There shall be an application fee for all applications, which application fee shall be determined by a fee schedule set from time to time by the Frenchboro Board of Selectmen and made available to the public.
2. The Planning Board reserves the right to obtain an independent evaluation of a proposed development, to assist them in making necessary findings of fact. If the Planning Board deems such study necessary, it will request a reasonable additional sum from the applicant to defray the cost of such study or studies. Any funds not utilized for consultant studies will be returned to the developer.

G. Issuance of the Building Permit and the Life of the Permit

1. The CEO or Planning Board shall issue a Building Permit upon application approval by the appropriate review authority. Applicant must pick up and pay for this permit before proceeding.
2. Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void. A new permit must be obtained.
3. The project must be complete within five (5) years of the effective date of the permit, except in the shoreland zone, where if a substantial start is made within one (1) year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

4. A request may be made to the original authorizing authority (Planning Board or CEO) for an extension to the start time or completion time of one year (1), but not to exceed two (2) extensions, except in the shoreland zone, where if a substantial start is made within one year of the issuance of the permit, the applicant may request two additional years to complete the project, at which time the permit shall expire; should the project not be completed, a new permit is required that meets any new requirements.

#### HE. Special Exceptions

In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single-family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

1. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
2. The lot on which the structure is proposed is undeveloped and was established and recorded in the Hancock County Registry of Deeds before the adoption of the Resource Protection District.
3. All proposed buildings, sewage disposal systems and other improvements are:
  - a. Located on natural ground slopes of less than 20%; and
  - b. Located outside the floodplain, or in the case of principal buildings including basements, elevated at least one foot above the 100-year floodplain elevation.
4. The total footprint, as defined, is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
5. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in relation to the floodplain, and its proximity to moderate-value and high-value wetlands.

#### EF. Expiration of Permit

Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

### IG. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the town unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

### JH. Appeals

#### 1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

- a. Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the enforcement or administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
- b. To authorize variances upon appeal, within the limitations set forth in this Ordinance.

#### 2. Variances may be granted only under the following conditions:

- a. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of non-vegetated surfaces, and setback requirements.
- b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variance unless it finds that:
  - i. The proposed structure or use would meet the provisions of **Section 15** except for the specific provision which has created the non-conformity and from which relief is sought; and

- ii. The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
  - a. That the land in question cannot yield a reasonable return unless a variance is granted;
  - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - c. That the granting of a variance will not alter the essential character of the locality; and
  - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- d. Notwithstanding Section 16(H)(2)(c)(ii) above, in accordance with 30-A M.R.S.A section 4353-A, the Code Enforcement Officer may approve a permit to the owner of a residential dwelling unit for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses that dwelling. The permit is deemed to include the variance, which shall be solely for installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Code Enforcement Officer may impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include ramps and associated railing, and wall or roof systems necessary for the safety or effectiveness of the structure. Such permitting is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.
- e. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it seems necessary. The party receiving the variance shall comply with any conditions imposed.
- f. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

- g. A copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

### 3. Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

### 4. Appeal Procedure

#### a. Making an Appeal

- i. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within thirty (30) days of the date of decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- ii. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
  - a. A concise written statement indicating what relief is requested and why it should be granted.
  - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

- iii. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
    - iv. The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request, unless this time period is extended by the parties.
  - b. Decision by Board of Appeals
    - i. A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
    - ii. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The Board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.
    - iii. The person filing the appeal shall have the burden of proof.
    - iv. The Board shall decide all appeals within thirty-five (35) days after the close of the hearing and shall issue a written decision on all appeals.
    - v. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.
5. Appeal to Superior Court

Except as provided by 30-A M.R.S.A. § 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
6. Reconsideration

In accordance with 30-A M.R.S.A. § 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must

occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

K. Enforcement

1. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

2. Code Enforcement Officer

- a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
- b. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On an annual basis, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

3. Legal Actions

When the above action does not result in the correction or abatement of the violations or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that maybe appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent

agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

#### 4. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, M.R.S.A. §4452.

NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a Resource Protection district the maximum penalty is increased to \$5000 (30-A M.R.S.A. § 4452).

## SECTION 17: DEFINITIONS

**Abutter**- The owner of any property with one or more common boundaries, or across the street or stream from, the property involved in an application or appeal.

**Accessory Dwelling Unit (“ADU”)** - A self-contained dwelling unit located within, attached to, or detached from a single-family dwelling unit located on the same parcel of land. An accessory dwelling unit must be a minimum of 190 square feet of livable floor area.

**Accessory Structure or Use** - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Aggrieved Party** - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

**Agriculture** - the production, keeping or maintenance or sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

**Aquaculture** - the growing or propagation of harvestable fresh water, estuarine, or marine plant or animal species.

**Basal Area** - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

**Basement** - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

**Boat Launching Facility** - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

**Bureau of Forestry** – State of Maine Department of Agriculture, Conservation and Forestry, Bureau of Forestry.

**Campground** - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

**Canopy** – the more or less continuous cover formed by tree crowns in a wooded area.

~~**Coastal Wetland**—all tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.~~

**Commercial Use** - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, inclusive of professional offices and exclusive of rental of residential buildings and/or dwelling units.

**Development** – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

**Dimensional Requirements** - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**Disability** - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

**Driveway** - a vehicular access-way less than five hundred (500) feet in length serving two lots or less.

**Emergency Operations** - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

**Essential Services** - the construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, electric power, or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas; oil, water, slurry or other similar pipelines; municipal sewage lines; collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms, and hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**Excavation Contractor** - an individual or firm that either is engaged in a business that causes the disturbance of one or more cubic yards of soil, or is in a business in which the disturbance of one or more cubic yards of soil results from an activity that the individual or firm is retained to

perform. Disturbance includes: grading, filling, and removal. A person or firm engaged in agriculture or timber harvesting activities is not considered an excavation contractor as long as best management practices for erosion and sedimentation control are used. Municipal, state and federal employees engaged in projects associated with that employment are not considered excavation contractors.

**Existing Dwelling Unit** - A residential unit in existence on a lot at the time of submission of a permit application to build additional units on that lot.

**Expansion of a Structure** - an increase in the floor-area footprint or volume-height of a structure, including all extensions such as, but not limited to attached: decks, garages, porches, and greenhouses.

**Expansion of Use** - the addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

**Family** - one or more persons occupying a premises and living as a single housekeeping unit.

**Floodplain** – a flood-prone area along rivers and adjacent to tidal waters, defined by the 100-year floodplain as designated on FEMA Flood Insurance Rate Maps or Flood Hazard Boundary Maps or by the flood of record, or in the absence of these, by soil types identified as recent floodplain soils by the National Cooperative Soil Survey.

**Floor Area** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**Footprint** - the entire area of ground covered by the structure(s) on a lot, including but not limited to: cantilevered or similar overhanging extensions, as well as unenclosed structures such as patios and decks.

**Forest Management Activities** - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities exclusive of timber harvesting and the construction, creation or maintenance of roads.

**Foundation** – the supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frost walls.

~~**Freshwater wetland**—freshwater swamps, marshes, bogs and similar areas which are:~~

- ~~1. —of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and~~

- ~~2. Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.~~

**Functionally Water-Dependent Uses** - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal ~~and or~~ inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to ~~marine coastal~~ or ~~tidal inland~~ waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

**Ground Cover** – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**Hazard Tree** - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes, hurricane-force winds, tornados, microbursts, or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

**Height of a Structure** -

(A) With respect to existing principal or accessory structures, including legally existing nonconforming structures, located within an area of special flood hazard that have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the minimum elevation required by the “Floodplain Management Ordinance for the Town of Frenchboro, Maine”, the vertical distance between the bottom of the sill of the structure to the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area; and

(B) With respect to new principal or accessory structures and to existing principal or accessory structures other than those described in paragraph A, including legally existing nonconforming structures, the vertical distance between the mean original grade at the downhill side of the structure, prior to construction, and the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.

**Home Occupation** - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

**Increase in Nonconformity of a Structure** - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in non-vegetated surfaces, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

**Individual Private Campsite** - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms.

**Industrial** - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

**Institutional** – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

**Lot** - A parcel of land whose boundaries have been established by some legal instrument such as a current recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.”

**Lot area** - the area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Lot Line Setbacks shall be measured perpendicular to the side, rear or front lot lines or edge of road right of way if lot has frontage on road.

**Marina** - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

**Market Value** - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing buyer and a willing seller, both conversant with the property and with prevailing general price levels.

**Mineral Exploration** - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

**Mineral Extraction** - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

**Minimum Lot Width** - the closest distance between side lot lines of a lot.

Minimum Property Line Setback – the distance from the property line (front, back or sideyard) to the principal or ADU structure

**Multi-Unit Residential** - a residential structure containing three (3) or more residential dwelling units.

Native – indigenous to the local forests.

Nonconforming Condition – nonconforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

**Non-Conforming Lot** - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

**Non-Conforming Structure** – a structure which does not meet any one or more of the following dimensional requirements: setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Non-Conforming Use** - use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Non-Native Invasive Species of Vegetation** - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

**Normal High-Water Line** - the line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

**Person** - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

**Piers, Docks, Wharfs, Bridges, and other Structures and Uses extending over or beyond the normal High-Water line or within a Wetland** -

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

**Principal Structure** - a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

**Principal Use** - a use other than one which is wholly incidental or accessory to another use on the same premises.

**Public Facility** - any facility, including but not limited to, buildings, property, recreation areas, and roads which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

~~**Recent Flood Plain Soils** - the following soil series as described and identified by the National Cooperative Soil Survey:~~

Alluvial  
Fryeburg  
Lovewell  
Podunk  
Suncook

Cornish  
Hadley  
Medomak  
Rumney  
Sunday

Charles  
Limerick  
Ondawa  
Saco  
Winooski

**Recreational Facility** - a place designed and equipped for the conduct of sports, leisure time, activities, and other customary and usual recreational activities, excluding boat launching facilities.

**Recreational Vehicle** - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground and must be registered with the State Division of Motor Vehicles.

**Replacement System** - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

**Residential Dwelling Unit** - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

**Riprap** - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**River** - a free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

**Road** - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

**Salt Marsh** - areas along coastal waters (most often along coastal bays) which support salt tolerant species, and where at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is saltmarsh cordgrass. More open areas often support widgeon grass, eelgrass, and sago pondweed.

**Salt Meadow** - areas which support salt tolerant plant species bordering the landward side of salt marshes or open coastal waters, where the soil is saturated during the growing season but which is rarely inundated by tidal waters.

**Sapling** – a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

**Seedling** – a young tree species that is less than four and one half (4.5) feet in height above ground level.

**Service Drop** - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
  - a. the placement of wires and/or the installation of utility poles is located entirely upon the premise of the customer requesting service or upon a roadway right-of-way; and
  - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
  - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
  - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Setback** - the nearest horizontal distance from the normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

**Shore Frontage** - the length of a lot bordering on a water body measured in a straight line between the intersection of the lot lines with the shoreline at normal high-water elevation.

**Shoreland Zone** - the land area located within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream.

**Shoreline – the normal high-water line, or upland edge of a freshwater or coastal wetland.**

**Single-Family Dwelling Unit - a structure containing one (1) dwelling unit.**

**Significant Wildlife Habitat - Areas within 250 feet, horizontal distance, of the upland edge of freshwater and/or coastal wetlands, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W). These areas are generally depicted on a Geographic Information System (GIS) data layer.**

**Storm-Damaged Tree – a tree that has been uprooted, blown down, is lying on the ground, or remains standing, and is damaged beyond the point of recovery as a result of a storm event.**

**Structure** - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

**Substantial Start** - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

**Subsurface Sewage Disposal System** - a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. § 414 (1-A), or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A., Chapter 13, subchapter 1.

**Sustained Slope** - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**Tidal waters** – all waters affected by tidal action during the highest annual tide.

**Timber Harvesting** - ~~the cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction. the cutting and removal of timber for the primary purpose of selling or processing forest products. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting.~~

**Tree** – a woody perennial plant that has a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, that has a more or less definite crown and that reaches a height of at least ten (10) feet at maturity.

**Tributary Stream** - a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined.

**Upland Edge** - the boundary between upland and wetland

**Vegetation** - all live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4½ feet above ground level.

**Velocity Zone** - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

**Volume of a Structure** - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**Water Body** - any pond, river, or stream ~~or tidal area~~

**Water Crossing** - any project extending from one bank to the opposite bank of a stream or tributary stream, whether under, through, or over the water course. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings.

**Wetland** - a freshwater or coastal wetland.

- a. **Coastal Wetland** - all tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

**b. Freshwater Wetland** - freshwater swamps, marshes, bogs and similar areas which are:

1. of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or: groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Woody Vegetation** - live trees or woody, non-herbaceous shrubs.